



TOWN OF SWAMPSCOTT

ZONING BOARD OF APPEALS

ELIHU THOMSON ADMINISTRATION BUILDING
22 MONUMENT AVENUE, SWAMPSCOTT, MA 01907

MEMBERS

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DANIEL DOHERTY, ESQ., VICE CHAIR
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ANDREW ROSE

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DOUGLAS DUBIN
HARRY PASS, ESQ.

JUNE 15, 2016 MEETING MINUTES

Time: 7:00 – 8:30 PM
Location: Swampscott Senior Center, 200 Essex Street (rear)
Members Present: M. Kornitsky, D. Doherty, A. Paprocki, H. Pass, D. Dubin
Members Absent: A. Rose, B. Croft
Others Present: Pete Kane (Planning), Ken Shutzer (attorney), Michael Callahan (attorney), John Niakaros (representative for petitioner), Denine Ribicandria (petitioner), James Landergan (attorney), Mr. & Mrs. Varvounis (residents)

Meeting called to order at 7:10 PM by Chairman Kornitsky.

MEETING MINUTES

The Board reviewed the minutes from the May hearing. On a motion by D. Doherty, the May 18, 2016, minutes were unanimously approved.

ZONING RELIEF PETITIONS

PETITION 16-10 (326-330 PARADISE ROAD) : Application of CROWN POINTE CONDOMINIUM TRUST seeking at appeal of the determination of the Inspector of Buildings related to the issuance of the final Certificate of Use and Occupancy as it pertains to the installation of a “greenbelt” at Hanover Vinnin Square. Map 34, Lot 111. *Continued from the May hearing.*

Attorney Ken Shutzer stated that Crown Pointe and Hanover have been discussing the landscaping plan since the previous hearing. The Crown Pointe landscape architect (Collins) put together a more detailed plan for Hanover on June 6. They believed that Hanover would use the Collins plan. On June 13, a new landscape plan was put together by Hanover. The items Crown Pointe was looking for were included. A final plan hasn't been developed with additional details. They anticipate Hanover to have that final plan on Thursday (June 16). Mr. Shutzer believes that there shouldn't be any issue with Hanover's plan. They expect the landscaping plan to then be submitted as an amendment to the previous special permit for the development. He would like a sunset clause to be included so that they could ensure the buildout of the landscaping it done correctly and accurately.

Attorney Michael Callahan stated Hanover will need more than 30 days to implement the updated landscaping plan.

M. Kornitsky stated that he wasn't sure that they could amend the previous special permit since the petition is an appeal of the action of the Building Inspector. Mr. Shutzer believes that the decision on the appeal could include the amendment. M. Kornitsky stated that the decision couldn't amend the special permit but could reference the new landscape plan and direct the Building Dept to honor it. M. Kornitsky said a better idea would be that the two parties

come to an agreement. Once that's set, they could then dismiss the appeal instead. Mr. Shutzer said that they'd like the plans entered formally with the Building Dept and Planning Dept. If these new landscape plans supersede the previous plans, there should be record of it. M. Kornitsky stated that the landscape plans can be submitted as the as-builts.

Mr. Callahan asked if the two parties agree to the plan, does the Board need to see it. M. Kornitsky stated that they wouldn't need to since this is an appeal.

MOTION : to continue the hearing to the July 20 meeting by M. Kornitsky, seconded by D. Dubin, unanimously agreed.

PETITION 16-15 (12-24 PINE STREET): Application of DENINE RIBICANDRIA seeking a use special permit to construct a new detached garage with dimensions of 32 feet by 48 feet. Map 9, Lot 510.

John Niakaros (representing Denine, contractor and engaged to Denine) spoke to the request to construct the garage. Attorney James Landergan (representing the Varvounis family) asked if a non-attorney can represent an applicant. M. Kornitsky responded that in the past, contractors have been allowed to speak on behalf of applicants. Applicant (Denine) was present for hearing as well.

They are looking to build an accessory structure at the property on 18 Connelly Ave. It meets all requirements, but they want to increase the size of the garage that would be allowed. They want to put at least four vehicles and a boat in the garage as well as various equipment. The abutter (Denine's father, Fred) is a contractor that does landscape construction and paving. Fred would keep much of his equipment on Denine's property. They want to build the garage to house the machinery. They also want to keep cabinet building equipment there too for John's business.

M. Kornitsky asked what the square footage of the house is. P. Kane looked it up on the Assessor's database - it's 3,060 gsf. The proposed garage would be 1,536 gsf. M. Kornitsky noted that there are proposed doors of 9 feet and 16 feet. M. Kornitsky noted that based on the depth of the proposed garage, it could fit three cars in tandem. H. Pass asked if the garage needs to be that big, could it be smaller? It seems too wide. John said that they're trying to maximize what they can fit. H. Pass noted that what's concerning is that its a residentially-zoned property but this includes commercial equipment. D. Doherty asked if they are conducting business there or is it just for storage? John said that Denine stores plows there and plows for the City of Lynn (two plows and two trucks). D. Doherty asked what else will be stored there. John said equipment from his cabinet-making business. There's also a bobcat to carry wood, no wood delivery. The paving machines aren't on site.

M. Kornitsky pointed out that in Section 2.3.3.2 that a three-private car garage is allowed in the A-2 but they are looking to do something larger. The depth of the proposed structure makes it exceed the permitted use. Based on the bylaw, he doesn't see the power given to the ZBA to grant a larger garage. He said it could be filed as a secondary principal structure but then that'll bring up the question of the secondary use of a contractor's yard which isn't allowed. Mr. Niakaros said that they're looking to fix up the yard along with installing the garage.

Attorney Landergan was invited to speak. He said that what the applicant is looking to do really requires a zoning change. He stated that the property has a long history of not conforming to the bylaws. He provided copies of letters from the Building Inspector due to the vehicles stored at the property. He also provided photos that were taken last year (March 2015). He said that the contractor's storage is an industrial use, not commercial, which is worse. The Board

confirmed the listing in the zoning bylaw and that a contractor's yard is only allowed by special permit in the B-2 and I zones (not in the residential zones). While driving around the neighborhood, it could open the door to the same thing happening at other residences. He questioned why they want to build a garage for a truck they plan on selling. M. Kornitsky noted that the cabinet-making business would fall under light industrial which also isn't allowed in the district. A formal enforcement was needed in February 2016 due to complaints. Mr. Landergan said it feels like a creeping illegal use.

M. Kornitsky asked if it were an accessory structure at the rear of the property that was smaller and would allow three passenger vehicles and wood - would abutters be okay with it. Mr. Landergan said that a three-car is still very large. Mrs. Varvounis said their concern is that if the garage is allowed, will the other uses continue? Since the Building Inspector took action in February, it's been quiet. But they're afraid of all the loud equipment again. D. Doherty noted that storing the snow plows, doing service in Lynn, and bringing them back - it's conducting business at the property. Mr. Niakaros asked if you're self employed, can you keep 50% of business items at the home? M. Kornitsky said that the use would need to be permitted itself (either by right or special permit).

M. Kornitsky also said that in Section 2.2.4.7 allows a garage for personal vehicles is allowed. And allows a special permit to allow additional automobiles. He then read section 2.2.4.4 which allows commercial vehicles parked only when services are being performed at the property.

Mrs. Varvounis said that a neighbor (Janet Tamborini) who's away on vacation had a letter to submit. Mr. Varvounis said that he also has commercial equipment that he uses in Lynn but it's stored at a commercial property.

M. Kornitsky sees an issue between 2.2.4.7 and 2.3.3.2 as they appear to conflict. The Board discussed the issues.

Mr. Niakaros said that Fred developed that area and lots of things were grandfathered. Ms. Ribicandria does the snowplowing for extra money.

M. Kornitsky doesn't believe that the Board has the authority to grant the special permit - it needs to not be as deep. It can't be more than three automobiles as noted in 2.3.3.2. It can't be large enough that more than three vehicles could fit in there. He said he's vote to deny the request but they could continue it instead so they could work with their neighbors. D. Doherty agreed that the Board can't approve it. He doesn't think it should be a garage that could even fit three F-250s. They have a right to put up a three-car garage. Mr. Niakaros said his cabinet-making work would be a hobby. A. Paprocki agreed with the other two and that the size is too large. D. Dubin feels the proposal is perfect, agrees it's big. H. Pass feels that structure is too large for the lot and its proximity to the property line. He struggles with the use that they want the garage for - storing the plow trucks there would be fine but the cabinet-making appears to conflict.

Mr. Niakaros asked if the size of the garage can be determined tonight. M. Kornitsky suggested that the hearing be continued so they can evaluate the size and work with the neighbor. Then return to the Building Inspector to determine if the revised plans are confirming and then just get the building permit. If the Building Inspector disagrees due to the size, then they can come back to the ZBA. If the Building Inspector grants the building permit and neighbors disagree, they can appeal the Building Inspector's action.

MOTION : by D. Doherty to continue the hearing to August 17, unanimously agreed.

Meeting closed at 8:30 PM.

S. Peter Kane
Director of Community Development